IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 26TH SEPTEMBER 2007 / 4TH ASWINA 1929

Crl.MC.No. 2988 of 2007()

[S.C.764/05 BEFORE FAST TRACK I, THRISSUR]

PETITIONER: 2ND ACCUSED

RAJU SAMUVEL, AGED 32 YEARS,
S/O. SAMUVEL, KJOTTALIKKEL HOUSE,
KOTHAPARAMBU DESOM, IAKAMALESWARAM VILLAGE,
KODUNGALLUR TALUK.

BY ADV. SRI.RIJO M.S.

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.
(CIRCLE INSPECTOR OF POLICE, MALA).

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 26/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2988 of 2007

Dated this the 26th day of September 2007

O R D E R

The petitioner faces indictment in a prosecution under the provisions of the Kerala Abkari Act. The case is pending before the Fast Track Court-I, Thrissur as S.T.No.764/05. The petitioner had entered appearance and was enlarged on bail. When the matter stood posted for trial, the petitioner was not present. His counsel was not ready to go on with the trial representing the petitioner. In these circumstances, the learned Sessions Judge has initiated coercive proceedings against the petitioner. A warrant of arrest issued by the learned Judge is chasing the petitioner.

2. According to the petitioner, he is absolutely innocent. His omission/failure to appear on the date of trial was not wilful or deliberate. He is a driver by profession. He had gone on a trip to Maharashtra. The petitioner was held up and could not reach the court in time. The petitioner is willing to surrender before the learned Sessions Judge and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Sessions Judge on merits, in accordance with law and expeditiously. He, therefore, prays that directions under

Section 482 Cr.P.C. may be issued to the learned Sessions Judge to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Sessions Judge and explain to the learned Sessions Judge, the circumstances under which he could not earlier appear before the learned Sessions Judge. I find absolutely no reason to assume that the learned Sessions Judge would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Sessions Judge and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Sessions Judge must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007